

**Notice of Allowability**

Application No.

10/621,709

Examiner

Laura C. Hill

Applicant(s)

KARAPASHA, NANCY

Art Unit

3761

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Appeal Brief filed 3 January 2006.
2. ☒ The allowed claim(s) is/are 1-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>3/13/06, 3/14/06</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                                       | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Weirich on 13 and 14 March 2006.

The application has been amended as follows:

**In Claim 1, lines 3-4,**

Please delete:

"disposed about said outer surface" and replace with —extending inwardly from said outer surface and disposed between distal and proximal ends of said insertion member—

**In Claim 1, line 5,**

Please delete:

“,” and replace with —, wherein said depth dimension X is measured from the outer surface of insertion member to lowest point of indentation region; —

**In Claim 1, line 6,**

Please delete:

“raised portions having a height dimension Y;” and replace with —  
protruding, three-dimensional raised portions that are positioned within said indentation region and having a height dimension Y, wherein said height

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dimension Y is measured from base to highest point of individual raised portion

that is adjacent to outer surface of insertion member—

**In Claim 9, lines 3-4,**

Please delete:

“disposed about said outer surface” and replace with —extending inwardly from said outer surface and disposed between distal and proximal ends of said insertion member—

**In Claim 9, line 5,**

Please delete:

“,” and replace with —, wherein said depth dimension X is measured from the outer surface of insertion member to lowest point of indentation region; —

**In Claim 9, line 6,**

Please delete:

“raised portions having a height dimension Y,” and replace with —  
protruding, three-dimensional raised portions that are positioned within said indentation region and having a height dimension Y, wherein said height dimension Y is measured from base to highest point of individual raised portion that is adjacent to outer surface of insertion member—

**In Claim 15, lines 3-4,**

Please delete:

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“disposed about said outer surface” and replace with —extending inwardly from said outer surface and disposed between distal and proximal ends of said insertion member—

**In Claim 15, line 5,**

Please delete:

“,” and replace with —, wherein said depth dimension X is measured from the outer surface of insertion member to lowest point of indentation region; —

**In Claim 15, line 6,**

Please delete:

“raised portions having a height dimension Y;” and replace with — protruding, three-dimensional raised portions that are positioned within said indentation region and having a height dimension Y, wherein said height dimension Y is measured from base to highest point of individual raised portion that is adjacent to outer surface of insertion member—

***Information Disclosure Statement***

The information disclosure statements (IDS) submitted on 13 March 2006 and 14 March 2006 were filed after the mailing date of the final rejection on 22 August 2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

***Reasons for Allowance***

The art of record does not disclose or fairly suggest a tampon applicator having a (a) finger grip region extending inwardly from the outer surface of the insertion member

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and (b) disposed between insertion member distal and proximal ends, (c) having an indentation region comprising protruding three-dimensional raised portions positioned within the indentation region, (d) wherein the height dimension Y as measured from the base to highest point of individual raised portion that is adjacent to the insertion member outer surface is less than or equal to depth dimension X measured from insertion member outer surface to lowest point of indentation region for limited resistance to finger slip during the insertion and the expulsion of the tampon applicator.

1. **Fedyk et al.** (US 2003/0236485) discloses tampon applicator comprising insertion member 11 adapted to house an absorbent tampon and receive an elongate expulsion member/plunger 22 (page 2, paragraph 0029), said insertion member having grip region 17 extending inwardly from the outer surface and disposed between distal and proximal ends of the insertion member (page 2, paragraph 0033), said finger grip region 17 comprising ridges/raised portions 31 and alternating adjacent troughs 32 that form indentation region 23 (page 3, paragraph 0037, figures 1 and 3). Fedyk does not disclose or fairly suggest (c) raised portions 31 are positioned within the indentation region but rather alternate with the adjacent troughs to form the indentation region 23, *does not disclose or fairly suggest* protruding, three-dimensional raised portions, and furthermore *does not disclose or fairly suggest* (d) a raised portion height being less than or equal to an indentation depth, and there is no motivation to modify the applicator to have the claimed features.

2. **Campion et al.** (US 5,346,468) discloses a tampon applicator comprising a tampon holder/insertion member 12 adapted to house a tampon 13 and receive plunger

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20 (column 2, lines 54-57), said insertion member 12 having a finger grip region comprising raised portions 18 and depressions/indentation region 21 (column 2, line 61-column 3, line 10, figures 1 and 6). The finger grip region (a) extends *outwardly* from the insertion member 12 outer surface and (b) is disposed *at the proximal end* rather than between the distal and proximal end of the insertion member. Furthermore, Campion does not disclose or fairly suggest (c) raised portions 18 are positioned within indentation region 21 (see figure 5) but rather are positioned adjacent the indentation regions.

Note that the amended limitation of the "finger grip region disposed about said outer surface" negates the interpretation of the "outer surface" found in the previous Office action since the language more clearly defines the finger grip region as a distinct element from the insertion member outer surface. Therefore, the outer surface of the insertion member as recited in claim 1, line 3 cannot be interpreted to be any surface on the outside of any portion of the insertion member body or the outermost surface of the raised portion 18 located in the finger grip region of the insertion member 12 as discussed below and shown in figure 2. Therefore, Examiner concurs with Applicant that (d) Campion et al. clearly teaches a structure in which Y is considerably larger than X (see Remarks page 2 dated 6 July 2005).

3. **Lichstein et al.** (US 4,536,178) discloses tampon applicator 10 that carries tampon 12 and plunger/insertion member 18 (column 3, lines 26-39) with a finger grip region (a) comprising an indentation 34 and raised treads 36 extending inwardly from the insertion member outer surface (column 3, lines 54-61, column 4, lines 8-19 and

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figure 1). Lichstein does not disclose or fairly suggest (b) finger grip region is disposed at the proximal end of the insertion member 18, (c) protruding raised portions 36 are positioned within (but rather are positioned adjacent to) indentation region 34 (figure 1), or (d) respective indentation depth and raised portion height dimensions for improved slip resistance during insertion.

4. **Dohzono** (GB 2,166,656 A) discloses tampon applicator 1 for housing tampon 6 and receiving push out member/plunger 5 comprising a finger grip portion 2 (a) extending inwardly from the outer surface (page 1, lines 112-120, page 2, lines 15-25, figures 1 and 3), said finger grip portion 2 having recessed portion/indentation region 2' and raised region 4 (page 1, lines 125-127, page 2, lines 38-41). Dohzono does not disclose or fairly suggest finger grip portion 2 is (b) disposed between the distal and proximal ends, (c) has indentation region 2' with raised portions 4 positioned within the indentation region, or (d) any relative dimensions of the indentation depth and raised portion height.

5. **Jackson** (US 6,045,526) discloses tampon applicator 1 has barrel/insertion member 10 for housing tampon and receiving plunger 20 (column 2, lines 45-67) said insertion member 10 having finger grip region 30 located proximate the rear end 14 of insertion member 10 (column 3, lines 4-7) and comprising grooves/indentation region 32 and protuberances/raised portions 60 (c) positioned within indentation region 32 (column 3, lines 25-27, figure 1). Even if there was motivation to modify the finger grip region extending inwardly from the outer surface of the insertion member and disposed between insertion member distal and proximal ends of Fedyk or Campion with the

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raised portions positioned within the indentation of Jackson, there is no further motivation to modify Jackson with the relative indentation depth to raised portion height dimensions for limited resistance to finger slip during the insertion and the expulsion of the tampon applicator.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura C. Hill  
Examiner  
Art Unit 3761



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*LCH*

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

*Tatyana Zalukaeva*